



February 13, 2009

## HOUSE BILL No. 1114

DIGEST OF HB 1114 (Updated February 11, 2009 5:52 pm - DI 69)

**Citations Affected:** IC 13-14; IC 13-26.

**Synopsis:** Septic tanks and sewer systems. Provides that the Indiana department of environmental management (IDEM) may not require a county to join or form a regional sewage district to provide sewer service to an unincorporated area of the county unless IDEM determines that the population density of the unincorporated area exceeds the minimum population density at which property owners in an unincorporated area of the county may be required to discontinue septic system use. Requires the legislative body of a county that contains unincorporated areas to adopt an ordinance establishing the minimum population density at which property owners in an unincorporated area of the county may be required to discontinue septic system use. Provides that a regional sewage district may not require a property owner to connect to a sewer system if the property is: (1) located in an unincorporated area; and (2) served by a septic system that is, as determined by local health department, functioning satisfactorily.

**Effective:** July 1, 2009.

**Cheatham, Knollman**

January 8, 2009, read first time and referred to Committee on Environmental Affairs.  
February 12, 2009, reported — Do Pass.

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HB 1114—LS 7032/DI 103+



February 13, 2009

First Regular Session 116th General Assembly (2009)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2008 Regular Session of the General Assembly.

## HOUSE BILL No. 1114

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A BILL FOR AN ACT to amend the Indiana Code concerning environmental law.

*Be it enacted by the General Assembly of the State of Indiana:*

1 SECTION 1. IC 13-14-3-3 IS AMENDED TO READ AS  
2 FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 3. (a) If the  
3 commissioner finds that the local governmental units have not  
4 developed plans that provide for adequate:

- 5 (1) water supply;
- 6 (2) air, water, or wastewater treatment; or
- 7 (3) solid waste disposal facilities;

8 the department may hold a public hearing.

9 (b) If the facts support the conclusion, the department may order the  
10 affected local governmental units to proceed to form regional water,  
11 sewage, air, or solid waste districts that are necessary under IC 13-26.

12 **However, the department may not require a county to:**

- 13 (1) establish or join a regional sewage district to serve; or
- 14 (2) through a regional sewage district of which the county is  
15 a member, extend sewer service to;

16 **an unincorporated area of the county unless the department**  
17 **determines that the population density of the unincorporated area**

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1 of the county exceeds the minimum population density established  
 2 in an ordinance adopted by the county legislative body under  
 3 section 4 of this chapter.

4 SECTION 2. IC 13-14-3-4 IS ADDED TO THE INDIANA CODE  
 5 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY  
 6 1, 2009]: Sec. 4. (a) The legislative body of a county that contains  
 7 unincorporated areas shall adopt an ordinance that establishes a  
 8 minimum population density for an unincorporated area at which  
 9 owners of property located in the unincorporated area may be  
 10 required to connect to a regional sewer district's sewer system and  
 11 to discontinue use of septic systems. The county legislative body  
 12 shall consult with the local health department to establish a  
 13 minimum population density under this subsection.

14 (b) An ordinance adopted under subsection (a) may not violate  
 15 any rules adopted by the department under IC 13-22-2-4 or  
 16 IC 13-18.

17 (c) Nothing in this section may be construed to relieve a sewage  
 18 disposal company of the requirement to obtain a certificate of  
 19 territorial authority under IC 8-1-2-89.

20 SECTION 3. IC 13-26-5-2.5 IS AMENDED TO READ AS  
 21 FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 2.5. (a) As used in this  
 22 section, "septic tank soil absorption system" has the meaning set forth  
 23 in IC 13-11-2-199.5.

24 (b) This section applies to an owner of property located in an  
 25 incorporated area.

26 ~~(b)~~ (c) Subject to subsection ~~(d)~~ (e) and except as provided in  
 27 subsection ~~(e)~~ (f), a property owner is exempt from the requirement to  
 28 connect to a district's sewer system and to discontinue use of a septic  
 29 tank soil absorption system if the following conditions are met:

30 (1) The property owner's septic tank soil absorption system was  
 31 installed not more than five (5) years before the district's sewer  
 32 system's anticipated connection date.

33 (2) The property owner's septic tank soil absorption system was  
 34 new at the time of installation and was approved in writing by the  
 35 local health department.

36 (3) The property owner, at the property owner's own expense,  
 37 obtains and provides to the district a certification from the local  
 38 health department or the department's designee that the septic  
 39 tank soil absorption system is functioning satisfactorily. If the  
 40 local health department or the department's designee denies the  
 41 issuance of a certificate to the property owner, the property owner  
 42 may appeal the denial to the board of the local health department.

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The decision of the board is final and binding.

(4) The property owner provides the district with:

(A) the written notification of potential qualification for the exemption described in subsection ~~(g)~~; **(h)**; and

(B) the certification described in subdivision (3);

within the time limits set forth in subsection ~~(g)~~; **(h)**.

~~(c)~~ **(d)** If a property owner, within the time allowed under subsection ~~(g)~~; **(h)**, notifies a district in writing that the property owner qualifies for the exemption under this section, the district shall, until the property owner's eligibility for an exemption under this section is determined, suspend the requirement that the property owner discontinue use of a septic tank soil absorption system and connect to the district's sewer system.

~~(d)~~ **(e)** A property owner who qualifies for the exemption provided under this section may not be required to connect to the district's sewer system for a period of three (3) years beginning on the district's sewer system's anticipated connection date. If ownership of the property passes from the owner who qualified for the exemption to another person during the exemption period, the exemption does not apply to the subsequent owner of the property.

~~(e)~~ **(f)** The district may require a property owner who qualifies for the exemption under this section to discontinue use of a septic tank soil absorption system and connect to the district's sewer system if the district credits the unamortized portion of the original cost of the property owner's septic tank soil absorption system against the debt service portion of the customer's monthly bill. The amount that the district must credit under this subsection is determined in STEP TWO of the following formula:

STEP ONE: Multiply the original cost of the property owner's septic tank soil absorption system by a fraction, the numerator of which is ninety-six (96) months minus the age in months of the property owner's septic system, and the denominator of which is ninety-six (96) months.

STEP TWO: Determine the lesser of four thousand eight hundred dollars (\$4,800) or the result of STEP ONE.

The district shall apportion the total credit amount as determined in STEP TWO against the debt service portion of the property owner's monthly bill over a period to be determined by the district, but not to exceed twenty (20) years, or two hundred forty (240) months.

~~(f)~~ **(g)** A district that has filed plans with the department to create or expand a sewage district shall, within ten (10) days after filing the plans, provide written notice to affected property owners:

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(1) that the property owner may be required to discontinue the use of a septic tank soil absorption system;

(2) that the property owner may qualify for an exemption from the requirement to discontinue the use of the septic tank soil absorption system; and

(3) of the procedures to claim an exemption.

~~(g)~~ **(h)** To qualify for an exemption under this section, a property owner must:

(1) within sixty (60) days after the date of the written notice given to the property owner under subsection ~~(f)~~; **(g)**, notify the district in writing that the property owner qualifies for the exemption under this section; and

(2) within sixty (60) days after the ~~district receives date of~~ the written notice provided under subdivision (1), provide the district with the certification required under subsection ~~(b)(3)~~; **(c)(3)**.

SECTION 4. IC 13-26-5-2.6 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: **Sec. 2.6. (a) For purposes of this section, "local health department" includes a designee of a local health department.**

**(b) As used in this section, "septic tank soil absorption system" has the meaning set forth in IC 13-11-2-199.5.**

**(c) This section applies to an owner of property located in an unincorporated area of a county.**

**(d) A district that has filed plans with the department to create or expand a sewage district shall, not later than ten (10) days after filing the plans, provide written notice to affected property owners:**

**(1) that the property owner may be required to discontinue the use of a septic tank soil absorption system;**

**(2) that the property owner may qualify for an exemption from the requirement to discontinue the use of the septic tank soil absorption system; and**

**(3) of the procedures to claim an exemption under this section.**

**(e) A property owner is exempt from the requirement to connect to a district's sewer system and to discontinue use of a septic tank soil absorption system if the following conditions are met:**

**(1) The property owner's septic tank soil absorption system was new at the time of installation.**

**(2) The property owner provides the district with the following documentation:**

**(A) The written notification of potential qualification for the exemption described in subsection (f).**

**(B) A certification from the local health department that**

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1           the property owner's septic tank soil absorption system is  
 2           functioning satisfactorily as described in subsection (h).  
 3           (f) Not more than fourteen (14) days after receiving notice from  
 4           a district under subsection (d), a property owner that seeks to  
 5           qualify for an exemption under this section must do the following:  
 6           (1) Notify the district in writing that the property owner  
 7           qualifies for the exemption.  
 8           (2) Apply, at the property owner's own expense, to a local  
 9           health department for a certification that the property  
 10          owner's septic tank soil absorption system is functioning  
 11          satisfactorily.  
 12          (g) Upon receiving written notice from a property owner under  
 13          subsection (f)(1), and until the property owner's eligibility for an  
 14          exemption under this section is finally determined, a district shall  
 15          suspend the requirement that the property owner discontinue use  
 16          of a septic tank soil absorption system and connect to the district's  
 17          sewer system.  
 18          (h) Not more than ninety (90) days after receiving an application  
 19          from a property owner under subsection (f)(2), a local health  
 20          department shall inspect the property owner's septic tank soil  
 21          absorption system and issue or deny a certification that the septic  
 22          tank soil absorption system is functioning satisfactorily. A  
 23          certificate issued under this subsection is valid for a period  
 24          determined by the district that filed plans and provided notice to  
 25          the property owner under subsection (b), but must be valid for at  
 26          least two (2) years.  
 27          (i) If the local health department denies the issuance of a  
 28          certificate to the property owner under subsection (h), the local  
 29          health department shall notify the property owner in writing of  
 30          each reason the certificate was denied. Not more than fourteen (14)  
 31          days after a property owner is denied a certification under  
 32          subsection (h), the property owner may apply to the local health  
 33          department for a reinspection of the property owner's septic tank  
 34          soil absorption system. The local health department that receives  
 35          an application for reinspection shall reinspect the system:  
 36          (1) on a date not more than ninety (90) days after the date on  
 37          which the property owner applied for reinspection; or  
 38          (2) on a date more than ninety (90) days after the date of the  
 39          application for reinspection, if the date is agreed to by the  
 40          property owner and the local health department;  
 41          and shall issue or deny the certification. If the septic tank soil  
 42          absorption system is not functioning satisfactorily and the local

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1 health department again denies the certification, the property  
2 owner may appeal the denial to the board of the local health  
3 department. The decision of the board in an appeal under this  
4 subsection is final.

5 (j) Not more than thirty (30) days after receiving an initial  
6 certification issued under subsection (h) or (i), a property owner  
7 must provide the certification to the district to qualify for the  
8 exemption under this section. To maintain eligibility for an  
9 exemption under this section, a property owner must provide to the  
10 district an unexpired certificate issued under subsection (h) or (i)  
11 according to a schedule determined by the district but not more  
12 frequently than every two (2) years.

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## COMMITTEE REPORT

Mr. Speaker: Your Committee on Environmental Affairs, to which was referred House Bill 1114, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill do pass.

DVORAK, Chair

Committee Vote: yeas 6, nays 1.

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